

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON**

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-11068, Lake County)	TEMPORARY CHANGES IN PLACE
)	OF USE AND AN ADDITIONAL POINT
)	OF APPROPRIATION

Authority

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to temporarily transfer the place of use and, if necessary to convey the water to the temporary place of use, the point of appropriation authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

TIM WARKENTIN
PO BOX 12
CHRISTMAS VALLEY, OR 97641

Agent

DENNIS R. GLENDER
GLENDER'S HYDRO TECH SVC
8664 SW SAND RIDGE RD
CROOKED RIVER RANCH, OR 97760

Findings of Fact

Background

1. On April 26, 2010, TIM WARKENTIN filed an application to temporarily change the place of use and add a point of appropriation to serve the proposed place of use under Certificates 53454 and 75740 for a period of 5 years. The Department assigned the application number T-11068.

2. The portion of the first right to be transferred is as follows:

- Certificate:** 53454 in the name of FRED G. CROUCH (perfected under Permit G-8876)
- Use:** IRRIGATION of 68.9 ACRES
- Priority Date:** JUNE 16, 1980
- Rate:** 0.86 CUBIC FOOT PER SECOND
- Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year, provided further that in the event of a request for a change in point of appropriation, an additional point of appropriation or repair of this well, the quantity of water allowed herein together with any other right from this point of appropriation shall not exceed the capacity of this well at the time of perfection of this right.

Source: A WELL within the FORT ROCK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	18 E	WM	8	NW SW	WELL 1: 1380 FEET NORTH AND 1270 FEET EAST FROM THE SW CORNER OF SECTION 8

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	18 E	WM	8	NW NW	32.4
26 S	18 E	WM	8	SW NW	32.4
26 S	18 E	WM	8	NW SW	4.1
Total					68.9

3. Temporary Transfer Application T-11068 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Type of Change
26 S	18 E	WM	8	NW NW	29.6	POU & APOA
26 S	18 E	WM	8	SW NW	29.6	POU & APOA
26 S	18 E	WM	8	SE NW	5.6	POU & APOA
26 S	18 E	WM	8	NE SW	4.1	POU
Total					68.9	

4. An additional point of appropriation is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-11068 proposes an additional point of appropriation approximately 1306 feet north at:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	18 E	WM	8	SE NW	2686 FEET NORTH AND 1344 FEET EAST FROM THE SW CORNER OF SECTION 8

5. The portion of the second right to be transferred is as follows:

Certificate: 75740 in the name of GEORGE SCHMIDT (perfected under Permit G-9233)
Use: IRRIGATION of 53.6 ACRES
Priority Date: FEBRUARY 23, 1981
Rate: 0.55 CUBIC FOOT PER SECOND
Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each

acre irrigated, and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: A WELL within the FORT ROCK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	18 E	WM	8	NW SW	WELL 1: 1380 FEET NORTH AND 1270 FEET EAST FROM THE SW CORNER OF SECTION 8

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	18 E	WM	8	NE NW	29.6
26 S	18 E	WM	8	SE NW	24.0
Total					53.6

6. Temporary Transfer Application T-11068 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Type of Change
26 S	18 E	WM	8	NE NW	29.6	APOA
26 S	18 E	WM	8	NW NW	24.0	POU & APOA
Total					53.6	

7. A change in point of appropriation is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-11068 proposes to move the authorized point of appropriation approximately 1306 feet north to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	18 E	WM	8	NW SW	2686 FEET NORTH AND 1344 FEET EAST FROM THE SW CORNER OF SECTION 8

8. Certificates 53454 and 75740 list Well 1 as being in Fort Rock Basin. The well is actually located in Christmas Lake Valley.
9. Notice of the application for temporary transfer was published on May 4, 2010, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.

Temporary Transfer Review Criteria

10. Water has been used within the last five years according to the terms and conditions of the rights. There is no evidence available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
11. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
12. The proposed changes would not result in enlargement of the rights.

13. The proposed changes would not result in injury to other water rights. This finding is made through an abbreviated review recognizing that the transfer may be revoked under ORS 540.523(6) if the Department later finds that the transfer is causing injury to any existing water right.

Conclusions of Law

The temporary changes in place of use and additional point of appropriation to serve the temporary place of use proposed in Temporary Transfer Application T-11068 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

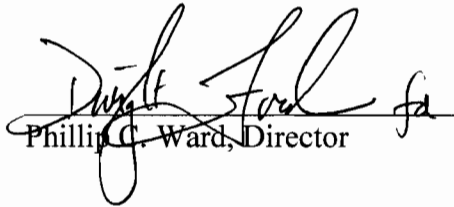
Now, therefore, it is ORDERED:

1. The temporary changes in place of use and additional point of appropriation to serve the temporary place of use proposed in Temporary Transfer Application T-11068 are approved.
2. The former place of use **shall not** be irrigated as part of these water rights during the 2010, 2011, 2012, 2013, and 2014 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2014 irrigation season. The authorization to use the temporary point of appropriation shall be terminated concurrently.
4. The approval of this temporary transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
5. A subsequent application for permanent transfer of Certificate 53454 and 75740 shall be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 380. Approval of this temporary transfer does not establish a precedent for approval of a subsequent application filed for a permanent transfer.
6. The use of water at the temporary place of use authorized by this transfer shall be in accordance with the terms and conditions of Certificate 53454 and 75740.
7. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
8. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.
9. Water use measurement conditions:
 - a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of appropriation.
 - b. The water user shall maintain the meter or measuring devices in good working order.

c. The water user shall allow the Watermaster access to the meter or measuring devices; provided however, where the meter or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.

10. The use of the remaining water right described by Certificates 53454 and 75740 shall continue to be in accordance with the terms and conditions of Certificates 53454 and 75740.

Dated at Salem, Oregon this 7 day of June 2010.


Phillip C. Ward, Director

Mailing Date: AUG 04 2010